

AS

Notice of Allowability

Application No.

09/986,716

Applicant(s)

OGAWA ET AL.

Examiner

Stephen J. Lechert Jr.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the election of 6-30-2003 and the filing date 11-9-2001.
2. ☒ The allowed claim(s) is/are 1-8.
3. ☒ The drawings filed on 09 November 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>3/12/02, 11/7/03</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Stephen J. Lechert Jr.
 Primary Examiner
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1. Restriction to one of the following inventions is required under 35

U.S.C. 121:

I. Claims 1-8, drawn to a method for extruding a tire rubber material, classified in class 264, subclass 40.6.

II. Claims 9-11, drawn to a positive displacement extruder, classified in class 425, subclass 113.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process for example the apparatus can be used to extrude polymers rather than tire rubber.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their

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different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with James Voeller on 6-30-2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claim 9-11 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

- 7. Action on the merits of claims 1-8 follows:**
- 8. Claims 1-8 are free of the prior art.**
- 9. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.**

Authorization for this examiner's amendment was given in a telephone interview with Mr. Armstrong on February 25, 2004.

The application has been amended as follows:

In the Claims:

Cancel claims 9-11 without prejudice.

- 10. The following is an examiner's statement of reasons for allowance:**

The invention relates to a process of extruding a tire rubber material using a positive displacement extruding system that includes, as seen from an upstream side of the tire rubber, a screw extruder

unit, a gear pump unit and an extrusion head, with an extrusion nozzle, which are connected in series with each other, the improved method comprising the steps of measuring the temperature of the rubber material flowing through the extruding system and controlling the rubber material to be within a predetermined temperature, in accordance with the measured temperature of the rubber material, while the tire rubber is caused to flow through the extruding system and maintaining the predetermined temperature of the rubber material before it is extruded from the extrusion nozzle.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Korpman teaches an extrusion process but does not teach particular extrusion system or temperature control as claimed as the tire rubber material is being extruded with

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the positive displacement extruding system. Iizuka et al. teach a process for laying an uncured rubber material on a rotating support but do not teach the positive displacement extruding system or the temperature control through the extrusion process. EP 1 211 050 A2 is the European equivalent of this US application. The US application has an earlier filing date and this EP 1 211 050 reference does not qualify as prior art.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Lechert Jr. whose telephone number is 571-272-1203. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen J. Lechert Jr.

Primary Examiner

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